§ 301.6109–2 Authority of the Secretary of Agriculture to collect employer identification numbers for purposes of the Food Stamp Act of 1977.

* * * * *

(c) *Sharing of information*—(1) *Sharing permitted with certain United States agencies and instrumentalities.* The Secretary of Agriculture may share the information contained in the list described in paragraph (b) of this section with any other agency or instrumentality of the United States that otherwise has access to employer identification numbers, but only to the extent the Secretary of Agriculture determines sharing such information will assist in verifying and matching that information against information maintained by the other agency or instrumentality.

(2) *Restrictions on the use of shared information.* The information shared by the Secretary of Agriculture pursuant to this section may be used by any other agency or instrumentality of the United States only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of those laws.

(d) *Safeguards*—(1) *Restrictions on access to employer identification numbers by individuals*—(i) *Numbers maintained by the Secretary of Agriculture.* The individuals who are permitted access to employer identification numbers obtained pursuant to paragraph (a) of this section and maintained by the Secretary of Agriculture are officers and employees of the United States whose duties or responsibilities require access to such employer identification numbers for the purpose of effective administration or enforcement of the Food Stamp Act of 1977 or for the purpose of sharing the information in accordance with paragraph (c) of this section.

(ii) *Numbers maintained by any other agency or instrumentality.* The individuals who are permitted access to employer identification numbers obtained pursuant to paragraph (c) of this section and maintained by any agency or instrumentality of the United States other than the Department of Agriculture are officers and employees of the United States whose duties or responsibilities require access to such employer identification numbers for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of those laws.

(2) *Other safeguards.* The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in paragraph (c) of this section, must provide for any additional safeguards that the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers. The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in paragraph (c) of this section, may also provide for any additional safeguards to protect the confidentiality of employer identification numbers, provided these safeguards are consistent with safeguards determined by the Secretary of the Treasury to be necessary or appropriate.

(e) *Confidentiality and disclosure of employer identification numbers.* Employer identification numbers obtained pursuant to paragraph (a) or (c) of this section are confidential. No officer or employee of the United States who has or had access to any such employer identification number may disclose that number in any manner to an individual not described in paragraph (d) of this section. For purposes of this paragraph (e), *officer or employee* includes a former officer or employee.

(f) *Sanctions*—(1) *Unauthorized, willful disclosure of employer identification numbers.* Sections 7213(a)(1), (2), and (3) apply with respect to the unauthorized, willful disclosure to any person of employer identification numbers that are maintained pursuant to this section by the Secretary of Agriculture, or any other agency or instrumentality with which information is shared pursuant to paragraph (c) of this section, in the same manner and to the same extent as sections 7213(a)(1), (2), and (3) apply with respect to unauthorized disclosures of returns and return information described in those sections.

(2) *Willful solicitation of employer identification numbers*1. Section 7213(a)(4) applies with respect to the willful offer of any item of material value in exchange for any employer identification number maintained pursuant to this section by the Secretary of Agriculture, or any other agency or instrumentality with which information is shared pursuant to paragraph (c) of this section, in the same manner and to the same extent as section 7213(a)(4) applies with respect to offers (in exchange for any return or return information) described in that section.

(g) *Delegation.* All references in this section to the Secretary of Agriculture are references to the Secretary of Agriculture or his or her delegate.

(h) *Effective date.* Except as provided in the following sentence, this section is effective on February 1, 1992. Any provisions relating to the sharing of information by the Secretary of Agriculture with any other agency or instrumentality of the United States are effective on August 15, 1994.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: September 7, 1995.

Cynthia G. Beerbower,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–24467 Filed 10–2–95; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 4

Service Contract Act; Labor Standards for Federal Service Contracts

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document revises 29 CFR part 4 to delete the requirement in § 4.7 of 29 CFR part 4 that any service contract of the Federal Government in an amount less then $2,500 that is subject to the McNamara-O'Hara Service Contract Act of 1965, as amended (SCA), must contain a clause specifying that the contractor or any subcontractor shall pay the minimum wage under the Fair Labor Standards Act (FLSA) to employees engaged in the performance of the contract. This revision is in response to the new ''micro purchase'' authority established by § 4301 of the Federal Acquisition Streamlining Act of 1994 (FASA) and facilitates the use of government credit cards for the purchase of supplies and services under $2,500.

DATES: This rule is effective October 3, 1995.

FOR FURTHER INFORMATION CONTACT: Richard M. Brennan, Acting Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3506, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 219–8412. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule contains no reporting or recordkeeping requirements subject to

the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The existing information collection requirements contained in Regulations, 29 CFR part 4 were previously approved by the Office of Management and Budget under OMB control number 1215–0150. The general Fair Labor Standards Act (FLSA) recordkeeping requirements which are restated in part 4 were approved by the Office of Management and Budget under OMB control number 1215–0017.

II. Background

The Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355, 108 Stat. 3243) was enacted into law on October 13, 1994. Section 4001 of this Act amends the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) to establish a ''simplified acquisition threshold'' of $100,000. In addition, § 4301 of FASA amends the Office of Federal Procurement Policy Act to establish a new class of purchases referred to as ''micro purchases,'' and a micro purchase threshold of $2,500. Under this section, among other things, purchases not exceeding $2,500 are not subject to the Small Business Act reservation requirement, Buy American Act, the requirement to secure competitive quotations, and Federal employees making such purchases are not deemed ''procurement officials.'' The new micro purchase authority, based on a recommendation of The National Performance Review (NPR), facilitates the use of credit cards by Federal agencies on small dollar purchases of supplies and services. For such purchases, the credit card procedure becomes both the method of payment and a method of contracting. The contract clause requirement in § 4.7 of 29 CFR part 4 for service contracts under $2,500 complicates implementation of the new micro purchase authority.

Section 2(b)(1) of the Service Contract Act of 1965 (SCA) (41 U.S.C. 351(b)(1)) generally obligates all contractors and subcontractors who are awarded contracts principally for the furnishing of services through the use of service employees, regardless of contract amount, to pay not less than the Federal minimum wage under § 6(a)(1) of the Fair Labor Standards Act (FLSA) to the employees engaged in the performance of such contracts. Unlike § 2(a) of the SCA which requires every service contract in excess of $2,500 to include particular stipulations relating to the Act's prevailing wage and fringe benefit provisions and other labor standard protections, § 2(b) does not statutorily require a ''clause'' to implement the obligation of covered service contractors or subcontractors to pay service employees not less than the minimum wage under § 6(a)(1) of the FLSA. Because the clause mandated by § 2(a) of the SCA for covered contracts in excess of $2,500 advises contractors and subcontractors of the obligation to pay FLSA minimum wages in the absence of a prevailing wage attachment to the contract (see paragraph (d)(1) of § 4.6), a counterpart minimum wage clause was considered appropriate for inclusion in contracts not exceeding $2,500 when SCA's original implementing regulations were being considered, and the requirement has been a part of the regulations since their inception.

The Department published a notice of proposed rulemaking in the Federal Register on June 16, 1995 (60 FR 31660), inviting comments until July 17, 1995, on a proposal to delete the contract clause requirement in § 4.7 of 29 CFR part 4 for service contracts under $2,500. One comment was received on the proposed rule. The International Association of Bridge, Structural and Ornamental Iron Workers, AFL–CIO, argued that the clause in § 4.7 assured minimum wage protections to service workers on small contracts, and that its removal, in the absence of credit card procedures to alert contractors of their minimum wage obligations, would undermine longstanding safeguards for such workers by making them dependent on their employers' familiarity with statutory requirements. While the Department acknowledges the basis of this concern, it continues to believe that the deletion of the requirement for a minimum wage clause in SCA-covered contracts not exceeding $2,500 will not adversely affect labor standards protections afforded service employees engaged in the performance of such contracts. The obligation of contractors and subcontractors to pay at least the minimum wage to any service employee performing on an SCA-covered contract is specifically contained in § 2(b) of the SCA, and is also set forth in § 6(e)(1) of the FLSA. This statutory obligation is defined further in the existing regulations at § 4.2 of 29 CFR part 4. While the clause may enhance employer awareness of minimum wage obligations, its removal as a contractual requirement does not conflict with the SCA's basic statutory framework. Given the lack of express statutory authority for the clause at § 4.7, and balanced against the streamlining objectives of FASA's § 4301, the commenter's contention that removal of the clause requirement disregards the rights of workers does not provide a compelling argument for not going forward as proposed. Accordingly, the proposed removal of the contract clause requirement is adopted as a final rule.

Executive Order 12866/Section 202 of the Unfunded Mandates Reform Act of 1995

This rule is not considered a ''significant regulatory action'' within the meaning of Executive Order 12866, nor does it require a § 202 statement under the Unfunded Mandates Reform Act of 1995. It will facilitate the handling of Federal agency purchases of $2,500 or less. The change eliminates a contract clause, which impedes the efficiency contemplated by the use of purchase cards on small purchases authorized by the micro-purchase authority under the Federal Acquisition Streamlining Act of 1994. The revision, however, will not eliminate the obligation of contractors and subcontractors to pay employees on such contracts not less than the minimum wage under § 6 of the FLSA.

Because the deletion of the contract clause would not affect contractors' responsibilities, the change is not expected to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Furthermore, deletion of the clause facilitates credit card purchases (thereby resulting in savings in paperwork processing) of services—estimated to be about 12 percent of all credit card purchases. Therefore, no regulatory impact analysis has been prepared.

Regulatory Flexibility Analysis

This rule will not have a significant economic impact on a substantial number of small entities. The rule simplifies the handling of small purchases of services and will primarily affect Federal agencies through reductions in burdensome paperwork. While small entities will benefit from less burdensome procurement procedures, the impact is believed to be insignificant because the purchase of

services appropriate for credit card use is relatively small, *i.e.*, the bulk of purchases appropriate for credit card use is supplies. Thus, this rule is not expected to have a ''significant economic impact on a substantial number of small entities'' within the meaning of the Regulatory Flexibility Act, and the Department has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. A regulatory flexibility analysis is not required.

Administrative Procedure Act

This rule will facilitate Federal agency purchases of $2,500 or less under provisions authorized by the micro-purchase authority of the Federal Acquisition Streamlining Act of 1994, effective October 1, 1995. Accordingly, the Agency for good cause finds, pursuant to U.S.C. 553(d)(3), that delay of the effective date of this rule is impracticable and contrary to the public interest.

Document Preparation

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 4

Administrative practice and procedures, Employee benefit plans, Government contracts, Investigations, Labor, Law enforcement, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, 29 CFR Part 4 of the Code of Federal Regulations is amended as set forth below.

Signed at Washington, D.C., on this 27th day of September, 1995.

Maria Echaveste,

Administrator, Wage and Hour Division.

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

1. Authority citation for Part 4 continues to read as follows:

Authority: 41 U.S.C. 351, *et seq.*, 79 Stat. 1034, as amended in 86 Stat. 789, 90 Stat. 2358; 41 U.S.C. 38 and 39; and 5 U.S.C. 301.

§ 4.7 [Removed and Reserved]

2. In Subpart A, § 4.7 is removed and reserved.

[FR Doc. 95–24504 Filed 10–2–95; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–94–149]

RIN 2115–AE47

Drawbridge Operation Regulations; Danvers, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard has changed the operating rules governing the Beverly-Salem SR1A Bridge at mile 0.0, between Salem and Beverly, Massachusetts, and the Essex County Kernwood Bridge at mile 1.0, between Peabody and Beverly, Massachusetts. Both bridges span the Danvers River. This final rule will permit the bridge owner, the Massachusetts Highway Department (MHD), to reduce the time periods that the bridges are crewed and increase the time periods that the bridges will be on a one-hour advance notice for openings. This action is being taken because there have been historically few requests for bridge openings during the time periods that MHD will not crew the bridge and require a one-hour advance notice for bridge openings. This change to the regulations will relieve the bridge owner of the unnecessary burden of having personnel at the bridge during the time periods that have had few requests for openings.

EFFECTIVE DATE: November 2, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for copying and inspection at the First Coast Guard District, Bridge Branch office located inthe Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, Massachusetts 02110–3350, room 628, between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (617) 223–8364.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Manager, Bridge Branch, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this final rule are Mr. John W. McDonald, Project Officer, Bridge Branch, and Lieutenant Commander Samuel R. Watkins, Project Counsel, District Legal Office.

Regulatory History

On January 19, 1995 the Coast Guard published a notice of proposed rulemaking entitled ''Drawbridge Operation Regulations; Danvers River, Massachusetts'' in the Federal Register (60 FR 3794). The Coast Guard received no comments on the notice of proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

The Beverly-Salem SR1A Bridge, mile 0.0, between Salem and Beverly, Massachusetts, has a vertical clearance of 10′ above mean high water (MHW) and 19′ above mean low water (MLW). The Essex County Kernwood Bridge at mile 1.0, between Peabody and Beverly, Massachusetts, has a vertical clearance of 8′ above MHW and 17′ above MLW.

The MHD has requested authority to reduce the times when the bridges are crewed by drawtenders and to increase the times when the bridges are on one-hour advance notice for openings. This request by MHD seeks relief from the unncessary burden of crewing the bridges during times of infrequent requests for bridge openings.

Discussion of Comments and Changes

No comments were received in response to the notice of proposed rulemaking. No changes to the proposed rule have been made.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) 44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaulation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that this rule will not prevent mariners from passing through the Beverly Salem SR1A Bridge and the Essex County Kernwood Bridge, but will only require mariners to plan their transits.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not